



The Voice of Small Business

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**Testimony on the Labor Strike and Picketing Reforms
Before the Senate Reforms, Restructuring and Reinventing Committee
Tuesday, September 24, 2013**

My name is Charlie Owens and I am the State Director for the National Federation of Independent Business, an advocate for Michigan small businesses owners since 1943. We are here today to support House Bills 4642 and 4643 that would allow employers to seek a court injunction against strike picketers that are obstructing their business and also let employers advertise for replacement workers in a strike without being required to disclose that there is a strike in progress.

These bills are necessary, as was indicated in previous testimony last session before both the House and the Senate because it is difficult, expensive, and time consuming to penalize illegally striking employees and those that engage in harassment tactics as the current law is now constructed. Unions are well aware of this difficulty and have made it clear that they are not afraid to break the law and harass employers. In 2011, for example, the Michigan Education Association (MEA) threatened an illegal statewide strike in reaction to budget cuts and emergency financial manager legislation signed into state law. Some school districts have also had brief strikes and employers have had experience with union pickets that all but shut down their ability to function.

Why does organized labor feel they should not be subject to penalties when they break the law by supporting and encouraging an illegal strike activity? Why should union strikers feel encouraged and emboldened to harass businesses because they know the current remedies and penalties are ineffective?

Everyday small businesses face severe penalties associated with failing to post a myriad of notices and posters and/or not complying with hundreds of laws or regulations. Here are just a few of the penalties that small businesses in the state are subject to by various laws and rules regulating their activity:

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Posting and Related Law-Rule	Penalty for failure to comply
MIOSHA-OSHA Log of work related injury	For intentional falsification - fine of not more than \$10,000, or by imprisonment, for not more than 6 months or both. Failure to post can result in other citations and penalties up to \$7000. Willful violation can result in other citations and penalties up to \$70,000.
MIOSHA General Requirements	For intentional falsification - fine of not more than \$10,000, or by imprisonment, for not more than 6 months or both. Failure to post can result in other citations and penalties up to \$7000. Willful violation can result in other citations and penalties up to \$70,000.
Michigan Civil Rights	Penalty for not posting is not specified Violation of Article 5 \$10,000 first offense, \$25,000 second offense, \$50,000 two or more offenses.
Michigan Whistleblowers Protection Act	Violation of Act up to \$500
State Minimum Wage Notice	Violation of Act up to \$1,000
Michigan Youth Employment	Violation of Act up to \$1,000
Right to Know - MSDS	Failure to post can result in other citations and penalties up to \$7000. Willful violation can result in other citations and penalties up to \$70,000.
Federal OSHA	Failure to post can result in other citations and penalties up to \$7000. Willful violation can result in other citations and penalties up to \$70,000.
Federal Minimum Wage Notice	Civil penalties up to \$1,100 for each willful or repeated violation and up to \$11,000 for each employee who is the subject of the violation. Up to \$50,000 for each child labor violation and \$100,000 where the violation is willful.
Family and Medical Leave Act	DOL action and Private Lawsuit cause of action
US DOL Employee Polygraph Protection Act	Civil penalties up to \$10,000 for each violation
Federal Equal Employment Opportunity	Failure to comply with this section punishable by a fine of not more than \$110 for each separate offense

There are other industry and trade specific posting requirements not covered here, but the point being made is that if a small business is expected to follow and comply with the law, why should organized labor receive deferential treatment for willful violations of strike laws or engaging in harassment activity because they know the employer remedies are ineffective and difficult to implement?

Would it be acceptable for organizations like NFIB to encourage small business to ignore rules and regulations because it is unlikely they would ever get caught? Of course not. We only ask the same treatment for organized labor - that they are subject to adequate penalties for flaunting the law and engaging in harassment behavior.

We urge the Committee to support these bills and report them to the House Floor for further consideration.

Thank you for your support of small business.